

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

WP(C).No. 33150 of 2007(U)

PETITIONER:

BINU THOMAS, SON OF T.T.THOMASKUTTY, AGED 34,
COMPANY EMPLOYEE, RESIDING AT HOUSE NO.VI/415 B,
THALAKULATH HOUSE, VIJO BHAVAN ROAD, THRIKKAKARA P.O.,
VAZHAKKALA VILLAGE, KANAYANNUR TALUK.

BY ADV. SRI.A.BALAGOPALAN
SRI.A.RAJAGOPALAN
SRI.M.N.MANMADAN
SMT.L.LAKSHMI

RESPONDENTS:

1. THRIKKAKKARA PANCHAYAT, REPRESENTED BY ITS
SECRETARY, OFFICE OF THE THRIKKAKKARA PANCHAYAT,
THRIKKAKKARA, ERNAKULAM.
2. SKYLINE BUILDERS, A PARTNERSHIP FIRM HAVING OFFICE
AT SKYLINE HOUSE, RAJAJI ROAD, ERNAKULAM, KOCHI-35,
REPRESENTED BY ITS MANAGING PARTNER ABDUL AZEEZ,
SON OF AHAMED KOYA, AGED 53, RESIDING AT 6 C, SKYLINE
BLAIR APARTMENTS, PANAMPILLY NAGAR, ERNAKULAM.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

PIUS C. KURIAKOSE,J.

W.P.(C) No.33150 of 2007

Dated: 7th November, 2007

JUDGMENT

The grievance voiced by the petitioner is that construction of a high rise building by the 2nd respondent is likely to result in heavy damages to the petitioner's properties. Life has been rendered miserable on account of piling works which are being undertaken. The petitioner has submitted Exts.P1 and P4 representations before the 1st respondent-Panchayat. The grievance is that the 1st respondent-Panchayat has not taken any action on Exts.P1 and P4. It is fairly conceded by the petitioner in the Writ Petition that his application for temporary injunction, though initially granted, was ultimately dismissed by the learned Munsiff and Ext.P3 is the order. Smt.T.Lakshmi, counsel for the petitioner submits that arrangements are under way for preferring appeal against Ext.P3. It is pointed out that the 1st respondent-Panchayat is not a party to the suit before the civil court. As a local authority, the 1st respondent is bound to consider Exts.P1 and P4, so submits the learned counsel.

2. Without going into the merits of the matter, I am of the view that this Writ Petition can be disposed of with the following directions since Exts.P1 and P4 seem to be pending before the 1st respondent-

Panchayat:

The Panchayat will take up Exts.P1 and P4 immediately, issue notice to the 2nd respondent, hear the petitioner and the 2nd respondent and take an early decision on Exts.P1 and P4. Decision as directed above will be taken at the earliest and at any rate within two weeks of receiving copy of the judgment. The 2nd respondent is reminded that continuance of the construction work taken up by them will be subject to the outcome of Exts.P1 and P4. If the decision on Exts.P1 and P4 comes to be against them, they will become liable to remove the constructions. They are also reminded that the constructions will be subject to the outcome of the suit, O.S.No.1168/07 which has been filed by the petitioner and any order which may be passed by the appellate court in the prospective appeal which the petitioner proposes to file against Ext.P3.

The Writ Petition is disposed of as above.

The petitioner is permitted to communicate this judgment to the 1st respondent.

srd

PIUS C.KURIAKOSE, JUDGE